

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

RICHARD T. COLE,

Plaintiff in 2:15cv419,  
Defendant in 2:15cv479,

v.

ACTION NOS. 2:15cv419  
& 2:15cv479

WADID DAOUD,

DAOUD INVESTMENT HOLDINGS, INC.,

Defendants in 2:15cv419,  
Plaintiffs in 2:15cv479,

and

KENT J. GEORGE,

Defendant in 2:15cv419.

MEMORANDUM ORDER

This matter comes before the court on several dispositive motions. In case number 2:15cv419 ("419"), Defendant Kent J. George ("George") filed a Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue, a Motion to Dismiss for Insufficiency of Service of Process, and a Motion to Dismiss for Failure to State a Claim, all with accompanying Memoranda in Support. ECF Nos. 3-8. Defendants Wadid Daoud ("Daoud") and Daoud Investment Holdings, Inc. ("DIH") filed a Motion to Dismiss Counts II, III, and IV of the Complaint for Failure to State a Claim, along with a Memorandum in Support. ECF Nos. 16, 17. The Plaintiff, Richard T. Cole ("Cole"), opposed

the above motions, ECF Nos. 13, 14, 15, 26, and the Defendants replied. ECF Nos. 20, 21, 22, 28.

In addition to the 419 case, Cole, Daoud, and DIH are parties to case number 2:15cv479 ("479"), initially filed by Daoud and DIH against Cole in the Southern District of Florida, but later transferred to the Eastern District of Virginia. Order Granting Mot. to Transfer, ECF No. 20. In this case, Cole filed a Counterclaim, which is substantially similar to the Complaint in the 419 case, against Daoud and DIH, ECF No. 7, and Daoud and DIH filed a Motion to Dismiss Counts II and III of the Counterclaim for Failure to State a Claim. ECF No. 19.

On December 1, 2015, these motions were referred to United States Magistrate Judge Douglas E. Miller, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b) to conduct hearings, including evidentiary hearings, if necessary, and to submit to the undersigned district judge proposed findings of fact, if applicable, and recommendations for the disposition of these motions. See ECF No. 29 (419 case); ECF No. 27 (479 case).

The Magistrate Judge filed the Report and Recommendation ("R&R") on February 17, 2016. ECF No. 34 (419 case); ECF No. 34 (479 case). For the 419 case, the Magistrate Judge recommended granting Defendant George's Motion to Dismiss for Failure to State a Claim; granting Defendants Daoud and DIH's Motion to

Dismiss Counts II, III, and IV; denying as moot Defendant George's Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue, and his Motion to Dismiss for Insufficiency of Service of Process; and dismissing George as a party. ECF No. 34, at 40 (419 case). For the 479 case, the Magistrate Judge recommended granting Plaintiffs Daoud and DIH's Motion to Dismiss Counts II and III of the Counterclaim. ECF No. 34, at 40 (479 case). The Magistrate Judge also recommended that, should the R&R be adopted, and if then so requested by objection, Cole receive ten (10) days to file an amended pleading. ECF No. 34, at 40 (419 case); ECF No. 34, at 40 (479 case).


By copy of the R&R, the parties were advised of their right to file written objections to the findings and recommendations made by the Magistrate Judge. See ECF No. 34, at 41 (419 case); ECF No. 34, at 41 (479 case). George filed his Objection on February 26, 2016. ECF No. 35 (419 case). Cole responded to George's Objection on March 9, 2016. ECF No. 37 (419 case). On March 2, 2016, Cole filed his Objections. ECF No. 36 (419 case); ECF No. 35 (479 case). Daoud and DIH filed their Response to Cole's Objections on March 14, 2016. ECF No. 38 (419 case). George filed his Response to Cole's Objections on March 15, 2016. ECF No. 39 (419 case).

The court, having examined the Objections filed by George and Cole to the R&R, and having made de novo findings with

respect thereto, does hereby adopt and approve in full the findings and recommendations set forth in the R&R of the United States Magistrate Judge filed February 17, 2016, in both the 419 case and the 479 case. Accordingly, the court **GRANTS** Defendant George's Motion to Dismiss for Failure to State a Claim, ECF No. 7 (419 case); **GRANTS** Defendants Daoud and DIH's Motion to Dismiss Counts II, III, and IV, ECF No. 16 (419 case); **DENIES** as **MOOT** Defendant George's Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue, and his Motion to Dismiss for Insufficiency of Service of Process, ECF Nos. 3, 5 (419 case); and **DISMISSES** George as a party in the 419 case. Furthermore, the court **GRANTS** Plaintiffs Daoud and DIH's Motion to Dismiss Counts II and III of Cole's Counterclaim. ECF No. 19 (479 case). The court also **GRANTS** Cole ten (10) days from the entry of this Memorandum Order to file an Amended Complaint in the 419 case, and an Amended Counterclaim in the 479 case.

The Clerk is **DIRECTED** to send a copy of this Order to counsel for all parties.

**IT IS SO ORDERED.**

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/s/  
Rebecca Beach Smith  
Chief Judge  
  
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REBECCA BEACH SMITH  
CHIEF JUDGE

March 24, 2016